

ARTICLE 33-27

LAKE RESTORATION PROGRAM

Chapter
33-27-01 North Dakota Lake Restoration Program

CHAPTER 33-27-01 NORTH DAKOTA LAKE RESTORATION PROGRAM

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33-27-01-01. Authority. The North Dakota state department of health has been authorized to administer this article under the provisions of North Dakota Century Code section 61-30-02.

History: Effective May 1, 1982.

General Authority: NDCC 61-30-02

Law Implemented: NDCC 61-30-02

33-27-01-02. Definitions.

1. "Department" means the North Dakota state department of health.
2. "Eligible project cost" means costs under construction contracts, supervision of construction work, administration, materials and equipment acquired, consumed, or expended specifically for the project, and preparation of construction drawings, specifications, estimates, and construction contract documents.
3. "Lake protection and rehabilitation projects" means projects which are designed to reduce eutrophication of lakes through watershed or in-lake treatments, or both.
4. "Unit of government" means political subdivisions of the state or state agencies with responsibilities for public lake development and control.

History: Effective May 1, 1982.

General Authority: NDCC 61-30-02

Law Implemented: NDCC 61-30-02

33-27-01-03. Eligibility. All units of government are eligible for lake restoration program assistance. For a project to be eligible, the lake concerned must have recreational value, and must be accessible to the public.

History: Effective May 1, 1982.

General Authority: NDCC 61-30-02

Law Implemented: NDCC 61-30-02, 61-30-04

33-27-01-04. Prioritization. Each request for a lake ranking will be subject to the following criteria. The numerical score assigned will dictate the individual lake's priority rating. The priority ranking list of candidate lakes will be updated every two years, or when a lake can increase twenty or more points.

Criteria	Points
1. The percent of shoreline accessible to the public	
a. Less than 10 percent	2
b. 10 percent - 25 percent	4
c. 25 percent - 50 percent	10
d. Greater than 50 percent	15
2. Public recreational facilities	
a. Picnic tables	2
b. Toilets	2
c. Garbage collection	2
d. Camping area	2
e. Boat launching ramp	2
f. City or county park	5
g. State park	10
3. Lake user population within twenty-mile radius (each cabin represents a population of five)	
a. Less than 3,000	2
b. 3,000 - 8,000	4
c. 8,000 - 20,000	6
d. Greater than 20,000	10
4. Lake size, type, and depth	
a. Less than 100 acres	2
b. 100 - 250	4
c. 250 - 500	6
d. Greater than 500	10
a. Man-made	5

b.	Natural lake	20
a.	Maximum depth less than 20 feet	5
b.	Maximum depth 20-30 feet	10
c.	Maximum depth greater than 30 feet	20
a.	Watershed/lake size ratio greater than 10	5
b.	Watershed/lake size ratio 5-10	10
c.	Watershed/lake size ratio less than 5	20
5.	Baseline water quality data	
a.	No water quality data	0
b.	Less than 5 water quality sampling dates	5
c.	One year comprehensive limnological data	25
6.	Numerical lake classification (Standards of water quality for state of North Dakota)	
a.	Class 1 and 2 cool and cold water fishery	10
b.	Class 3 warm water fishery	8
c.	Class 4 marginal fishery	6
d.	Class 5 not capable of supporting a fishery	2
7.	Proximity of lake to other lakes having similar size and recreational facilities	
a.	Less than 10 miles	0
b.	10 - 30 miles	5
c.	Greater than 30 miles	10

A minimum of five lakes with the highest priority ranking will undergo a baseline limnological survey and a public meeting will be held near the lake to provide an assessment of the local financial commitment necessary to proceed with a project.

In the event tentative financial arrangements cannot be made, the individual lake will maintain its rating for four years.

History: Effective May 1, 1982.

General Authority: NDCC 61-30-02

Law Implemented: NDCC 61-30-02

33-27-01-05. Application procedures. All applications for assistance must be made to the department and contain written assurance from any affected soil conservation district that the plan has been approved by the district to control point and nonpoint pollution which comes under their jurisdiction. Other information needed:

1. The name of the lake or reservoir.
2. Location of the lake, county, and distance from nearest town.
3. A description of the physical characteristics of the lake including major hydrologic inflows and outflows.
4. A description of the type and amount of public access, and the public benefits that would be derived by implementation of a project.
5. A description of any recreational uses of the lake that are impaired due to degraded water quality.
6. A description of the local interests and monetary resources committed to restoring the lake.
7. A map of the lake watershed, including size, general topography, soil types, and land use.
8. Identification of any point sources of pollution.
9. A discussion and analysis of historical baseline limnological data, and one year of current limnological data.
10. Describe alternatives for restoring the lake, including costs, environmental impacts, and probable success.
11. A milestone schedule identifying major work outputs, and expenditure of funds.

History: Effective May 1, 1982.

General Authority: NDCC 61-30-02

Law Implemented: NDCC 61-30-02, 61-30-05

33-27-01-06. Application review criteria. The department staff will review all applications within sixty days. Each application review will be based on the following criteria, after which the applicant will have sixty days to satisfy deficiencies.

1. State priority ranking/score.
2. Technical feasibility.
3. Lake ecosystem improvements anticipated.
4. Extent of public benefits.
5. Reasonableness of costs.
6. Recreation improvements anticipated.
7. Fish and wildlife improvements anticipated.
8. Mitigation of adverse environmental impacts.
9. Proposed operation and maintenance plan.
10. The ability of the applicant unit of government to implement the project.

History: Effective May 1, 1982.

General Authority: NDCC 61-30-02

Law Implemented: NDCC 61-30-02

33-27-01-07. Variances. The department may waive portions of the application procedures and review criteria for projects that are limited in scope of work and cost.

History: Effective May 1, 1982.

General Authority: NDCC 61-30-02

Law Implemented: NDCC 61-30-02

33-27-01-08. Distribution of funds.

1. **Types of assistance.** The department will make grants to units of government for eligible project costs at a sum not to exceed twenty-five percent when federal funding is available. No grants shall be made for studies to determine the necessity or feasibility of eligible projects.
2. **Contracts.** Grants may be awarded to units of government, which may in turn subcontract for all or any portion of the specific project, subject to approval of the department.
3. **Payments.** All eligible project costs will be paid by the department on a cost reimbursement basis. The unit of government responsible

for implementing the project must submit signed vouchers for reimbursement.

History: Effective May 1, 1982.

General Authority: NDCC 61-30-02

Law Implemented: NDCC 61-30-02, 61-30-03

33-27-01-09. Reports. The department shall require that all successful applicants file quarterly reports containing progress to date, and funds expended.

History: Effective May 1, 1982.

General Authority: NDCC 61-30-02

Law Implemented: NDCC 61-30-02